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Paper No. 12

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OFFICE OF PETITIONS

In re Application of
In-Kwon Jeong
Application No. 09/839,508
Filed: April 20, 2001
Title: APPARATUS AND METHOD FOR
SEQUENTIALLY POLISHING AND
LOADING/UNLOADING SEMICONDUCTOR
WAFERS

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This is a decision on the petition filed May 6, 2004, to revive the above-identified application under 37 CFR 1.137(b).

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the restriction requirement mailed January 29, 2002. This Office action set a shortened statutory period for reply of thirty (30) days from the mailing date of the action. No extensions of time under 37 CFR § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned at midnight on February 28, 2002. A courtesy Notice of Abandonment was mailed on September 27, 2002.

With the instant petition, petitioner filed a response to the non-final Office action in the form of an election, and met all other requirements for a grantable petition under 37 CFR 1.137(b).

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR

1.137(b) to the Patent and Trademark Office). Providing an inappropriate statement in a petition under 37 CFR 1.137(b) to revive an abandoned application may have an adverse effect when attempting to enforce any patent resulting from the application. See Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

Both the change of correspondence address and revocation of and new power of attorney submitted on petition are acknowledged and made of record.

The application file is being forwarded to Technology Center AU 3723 for consideration of the response to the restriction requirement (Paper No. 11).

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
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Office of Petitions